



INFORMATION PACKET

**HOW TO BECOME
A COMMUTER AIR CARRIER**

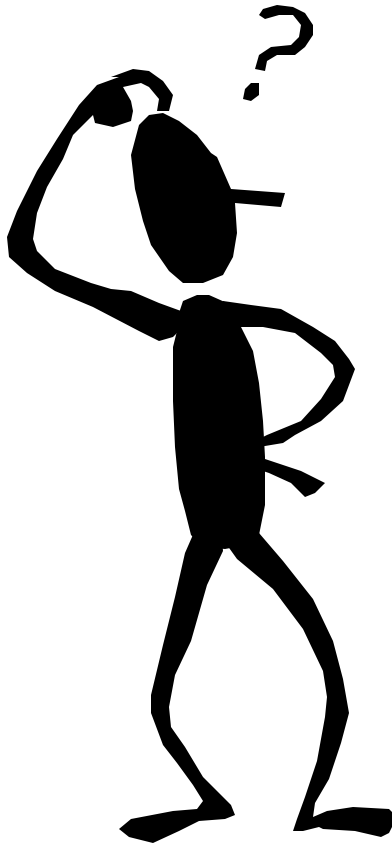
Prepared by:

**Air Carrier Fitness Division
Office of the Secretary
Department of Transportation
400 Seventh Street, SW.
Washington, DC 20590**

202-366-9721

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We strive to use plain language in our rules and in the guidance materials we publish to assist the public. If you find any language in the following information packet that is confusing or that could be written more clearly, please let us know. You may contact us at the address or telephone number shown on the preceding page.



PART I

APPLICATION PROCEDURES AND EVIDENCE REQUIREMENTS

Under Title 49 of the United States Code ("the Statute"),¹ anyone who wants to provide air transportation service² as an air carrier must first obtain two separate authorizations from the Department of Transportation: "safety" authority in the form of an Air Carrier Certificate from the Federal Aviation Administration (FAA),³ and "economic" authority in the form of a Commuter Air Carrier Authorization from the Office of the Secretary of Transportation (the Department).

Section 41738 of the Statute and section 298.21(d) of the Department's Regulations provides that anyone operating or proposing to operate scheduled passenger service to an "eligible point"⁴ as a commuter air carrier⁵ must first be found "fit, willing, and able" to provide such service. This "fitness" requirement is in addition to the registration, insurance, and reporting requirements for commuters contained in Parts 298 and 205 of the Department's Regulations (copies of which may be found in Part III of this packet). Commuter carriers that are designated by the Department to provide "essential air service" are also subject to this requirement. New commuter air carriers may not begin scheduled

¹ Copies of the Statute may be obtained directly from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

² "Air transportation," as defined by section 40102(a)(5) of the Statute, means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, in interstate or foreign air transportation. "Interstate air transportation," as defined in section 40102(a)(25), means operations between points in the United States, as well as between points in the United States, on the one hand, and points in U.S. territories or possessions, on the other, or between points in U.S. territories or possessions. "Foreign air transportation," as defined in section 40102(a)(23), means operations between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

³ The requirements for obtaining FAA safety authority are contained in 14 CFR Parts 119, 121, and 135.

⁴ Most cities in the United States are considered "eligible points." However, a list of such points may be obtained from the EAS & Domestic Analysis Division, X-53, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone 202-366-1058.

⁵ A commuter air carrier is defined under section 298.2(e) of the Department's Regulations as a carrier which (1) operates aircraft designed to have no more than 60 passenger seats; and (2) carries passengers on at least five round-trip flights per week on at least one route between two or more points according to published flight schedules which specify the times, days of the week, and places between which they are performed. The fitness requirements do *not* apply to carriers operating only scheduled all-cargo or mail service. *Note:* The definition of a commuter air carrier under FAA rules is different from that contained in Part 298. However, the fitness requirements apply to those companies that meet the definition contained in Part 298 of the Department's Regulations.

passenger service unless and until they have been found fit by the Department of Transportation.

This booklet contains information on how to obtain commuter air carrier authority. Information on other types of air carrier authority may be obtained from the Department as follows:

For information on **air taxi authority**, contact:

Program Management Branch
Federal Aviation Administration
AFS-260, Room 831
800 Independence Avenue, SW.
Washington, DC 20590
(202) 267-8166

For information on **certificate authority** under section 41102 of the Statute, contact:

Air Carrier Fitness Division
Department of Transportation
X-56, Room 6401
400 Seventh Street, SW.
Washington, DC 20590
(202) 366-9721

For information on obtaining an **Air Carrier Certificate from the FAA**, contact a local FAA Flight Standards District Office in your area or:

Flight Standards Certification Program Office
Federal Aviation Administration
AFS-900, Suite 131
45005 Aviation Drive
Dulles, Virginia 20166
(703) 661-0500

APPLICATION

An applicant proposing to operate scheduled passenger service as a commuter should file:

- with the Department's Air Carrier Fitness Division,⁶ an original plus one copy of a new or, in the case of an applicant that is already registered as an air taxi, an amended Air Taxi Operator and Commuter Air Carrier Registration Form (OST Form 4507) indicating its intent to operate such service. This is accomplished by checking the box in Block 5 of the registration form marked "scheduled passenger." If the applicant also wishes to operate other types of service, such as on-demand passenger or scheduled cargo, it should indicate that on the form. Also accompanying the registration should be evidence of current insurance coverage for the proposed operations, if such insurance is not already on file.⁷
- with the Department's Dockets Section,⁸ an executed original plus two (2) true copies of an application containing the supporting information that the applicant will rely on to convince the Department that it is "fit" to operate, along with a filing fee in the amount of \$670 payable to the Department of Transportation. The material required to be submitted with the application is detailed in section 204.3 of Part 204 of the Department's Regulations, a copy of which can be found in Part III of this packet.⁹

Should the applicant wish to seek *confidential treatment* for any portion of the material being filed in its fitness application, it should use the procedures set forth in section 302.12 of the Department's Regulations, a copy of which is included in Part III. Information for

⁶ Registration material should be filed with the Air Carrier Fitness Division, X-56, Office of Aviation Analysis, Department of Transportation, 400 7th Street, SW., Washington, DC 20590. A copy of OST Form 4507 is included in Part IV of this packet. A copy also may be viewed and printed at the following Internet site: <http://ostpxweb.dot.gov/aviation>. At this site, click on "International and Domestic Aviation" then click on "Economic Authority" and scroll down and click on "OST Form 4507". After the registration form is received, if insurance is in effect for the non-commuter operations proposed, the form will be stamped with an effective date authorizing all operations except for the proposed scheduled passenger service. Such operations will not be authorized until the applicant's fitness has been determined.

⁷ It is not necessary for commuter applicants to file evidence of the higher insurance coverage required for scheduled passenger operations under Part 205 at the time the registration form is filed. Evidence of such insurance on OST Form 6410 need only be filed when the applicant is ready to commence commuter operations. A copy of OST Form 6410 is included in Part III of this packet. A copy also may be viewed and printed at the web site shown in footnote 6 above (click on "OST Form 6410").

⁸ The application and accompanying fitness data should be filed with DOT Dockets, Room PL-401, 400 7th Street, SW., Washington, DC 20590, telephone (800) 647-5527.

⁹ Section 204.3 of this regulation describes the information to be filed in support an applicant's fitness to receive commuter air carrier authority. Section 204.4 describes the additional information to be filed by companies seeking to be designated to provide "essential air service" under section 41732 of the Statute.

which confidential treatment will generally be granted includes the specific markets to be served, proposed frequency of service, fares, estimated revenue passenger miles and available seat miles, and projected load factor. We may also grant confidential treatment to certain financial documents, such as aircraft leases, loan agreements, and financial statements of individuals or entities providing funding to the applicant. A sample application and a sample motion to withhold information from public disclosure are included in Part II of this packet.

Applicants for commuter authority should serve copies of their applications on (1) the FAA Flight Standards District Office with which the applicant has filed, or intends to file, its request for FAA authority; and (2) the airport authority of each airport that the applicant proposes to serve.

APPLICATION PROCESSING PROCEDURES

Applications for commuter authority should be *complete* when filed, that is, all of the information required by section 204.3 to determine a company's fitness to operate, as discussed below in **"Evidence Requirements,"** should be included. Applications should *not* be filed with the Department until after the applicant has progressed to the point where it has resolved all significant issues relating to its fitness. Thus, before filing an application with the Department, an applicant should have (1) determined its operating proposal, including identifying the aircraft it intends to use, and prepared complete revenue, expense, and traffic data supporting its plan, (2) identified all key management personnel, and (3) obtained the funding needed to meet the Department's financial fitness criteria, or, at a minimum, developed a reasonable and verifiable plan for doing so.

Upon receipt of an application, the Department's Dockets Section will assign it a docket number and place the application in a file which is available to the public at the Department's headquarters and via the internet [<http://dms.dot.gov>]. The application will then be forwarded to the Department's Air Carrier Fitness Division for review and processing.

If some additional or clarifying information is required, the Air Carrier Fitness staff will so advise the applicant and provide it with an opportunity (usually 30 days) to submit any required material. Any such subsequent filing, as well as any amendments to the application, such as changing the applicant's service proposal or changing key members of the management team, should be submitted to the Dockets Section, with an original and 2 copies, referencing the docket number assigned to the application.

After review of the filed documents, the Department will decide on the procedures it will follow in handling the application. The Department will also verify with the FAA that the applicant has, at a minimum, filed its Pre-Application Statement of Intent seeking the appropriate FAA safety authority, and has entered into letters of intent for the lease or purchase of aircraft and facilities.

Because of the substantial drain that processing incomplete or poorly prepared applications places on the Department--particularly in diverting staff resources from processing the applications of persons who are well prepared--if an applicant is unable to provide complete information in its application or in response to the staff's initial information request, the Department may dismiss the application. Generally, such action is taken "without prejudice" to the applicant's refiling for commuter authority at a later date when it is able to present a complete application.

Where the application is complete, and where there appear to be no material issues of fact that cannot be resolved on the written record, the Department will usually act on the application by use of "show-cause" procedures.¹⁰ The Department's Assistant Secretary for Aviation and International Affairs will then issue an order tentatively finding the applicant fit and proposing to authorize it to operate the proposed commuter service. A copy of the order will be sent to the applicant and interested FAA offices. A summary of the order will also be published in the Federal Register. The order will allow interested persons an opportunity, usually 14 days, to file comments and "show cause" why the Department should or should not adopt its proposed fitness findings and award of authority.

If no objections are filed, an order finalizing the tentative findings will be issued. If objections are filed, the applicant will have an opportunity to reply to them before further Department action is taken. Based on these responses, the Department will then determine what further procedural steps, if any, may be warranted, such as requesting additional information from the applicant or setting the case for hearing before an Administrative Law Judge. If such further procedures are not employed, the Department will issue a final order on the merits.

In some instances, the Department may impose conditions on the applicant's authority in the final order--such as a limit on the duration of the authority (*e.g.*, for one year) or on the number, type, or size of aircraft that the applicant may operate. If, at a later date, the company wished to operate beyond those limits, it would need to reapply to the Department and establish its fitness to do so.

At the time the Department issues its final decision finding the applicant fit, if the applicant does not hold an Air Carrier Certificate and Operations Specifications from the Federal Aviation Administration (FAA) authorizing it to conduct its proposed commuter operations, the commuter authority will not become *effective* until the applicant has received the required FAA authority and presented evidence of such to the Department. Further, at the time it presents its FAA documents to the Department, the applicant must also supply certain updated fitness information and proof of insurance coverage (see the discussion below under "**Other Requirements**"), and meet any other conditions imposed by the Department in its final decision.

¹⁰ In cases where there are substantial questions about a company's fitness to operate, the Department may issue a show-cause order proposing to deny the application. If an application raises substantive questions of fact, is controversial, or presents complex issues that cannot be resolved on the written record, the Department may direct that the matter be considered in an oral evidentiary hearing before an Administrative Law Judge, although this is rarely done.

Until such time as an applicant receives effective commuter authority from the Department, it may not sell tickets or operate scheduled passenger service. Between the time the Department issues its final decision on the application and the time an applicant's authority is made effective, an applicant may advertise or list schedules for its proposed services *only if* any such listings or advertisements prominently state: "This service is subject to receipt of government operating authority."

In calculating start-up time, an applicant should anticipate that the Department will require a *minimum of four months* to process the application beginning from the time the Department receives a *complete* application. Additional time would be required if objections are filed or complex or unusual issues are raised by the application. This estimate does not take into account the time required to complete any necessary FAA certification work.

EVIDENCE REQUIREMENTS

The Department uses a three-part test to determine the fitness of a company. First, the Department examines the *managerial competence* of the applicant's key personnel to determine whether they have sufficient business and aviation experience to operate an airline, and to determine that the management team, as a whole, possesses the background and experience necessary for the kind of operations proposed. Second, the Department reviews the applicant's *operating and financial plans* to see whether the applicant has a reasonable understanding of the costs of starting its operations and has a specific and plausible plan for raising the necessary capital. Before being granted effective air carrier authority, the applicant must submit third-party verification that it has acquired the necessary capital. Third, the Department looks at the applicant's *compliance record* to see whether it and its key personnel have a history of safety violations or consumer fraud activities that would pose a risk to the traveling public, or whether other factors indicate that the applicant is unlikely to comply with government laws, rules and directives. In addition, the applicant must establish that it is a *U.S. citizen*. The information required by Part 204 is intended to provide the Department with a sufficient basis upon which to determine whether an applicant is qualified in each of these areas to provide the public with its proposed service.

The following pages contain a discussion of the data required by sections 204.3 and 204.4, the rules which contain the Department's evidentiary requirements for prospective commuter air carriers and those proposing to provide "essential air service." (Sections 204.3 and 204.4 can be found in Part III of this booklet.) An applicant should address each point below. If the answer to the information requested is "not applicable" or "none," please so state for each item.

NOTE: Applications should not be filed with the Department until all of the required fitness information has been assembled. The Department may dismiss or reject an application if it is found to be materially deficient in any of the data required to be filed (e.g., if the management team or financing arrangements are incomplete). If an applicant has any questions concerning the filing

requirements or fitness procedures, those questions may be addressed to the staff of the Air Carrier Fitness Division (202-366-9721).

If, during the course of the Department's fitness review, any changes occur in the applicant's ownership, management team, compliance history, financial position, or service proposal, the applicant must file promptly with the Dockets Section a supplement to its application (with an original and 2 copies) describing the details of any such changes.

General

The purpose of the information described below is to provide the Department with some background on the applicant, including information on the type of service being provided currently as well as that proposed, and on its ownership structure, to demonstrate that the applicant is a U.S. citizen.

Data Required

1. The name, address, telephone and fax numbers of the applicant.
2. A narrative history of the applicant.
 - a. The narrative should include when the applicant was formed and by whom, any subsequent ownership changes, the nature of the business initially and how it has changed or grown, the applicant's service area and the primary markets currently being served.
 - b. The narrative should also indicate the scheduled markets to be served, whether additional aircraft will be required in the proposed service, and whether other changes or additions in the applicant's management team, facilities, and operations will be made if the requested authority is received.
 - c. If the applicant has or proposes to establish maintenance or operations bases separate from its corporate offices, the locations of those bases should be indicated.
 - d. If the applicant intends to contract out any maintenance, training or other operational functions, the percentage and type of such contracts should be indicated.
3. A list of the applicant's current and/or proposed fleet of aircraft, including the number and seating/cargo capacity of each type and model of aircraft and whether they are or will be owned or leased.
 - a. If the aircraft are leased, identify the lessor; if the aircraft will be leased, provide copies of letters of intent with the lessor.
 - b. A sworn affidavit stating that each of these aircraft has been certified by the FAA and complies with all applicable FAA safety standards should also be provided by

applicants that already operate aircraft. For non-operating applicants, this affidavit should be submitted at the time the company's FAA documents are submitted to the Department to make its authority effective. (See Part IV of this packet for a sample of the affidavit required.)

4. A description of all authority the applicant holds or has held to conduct air transportation operations from state, federal, and foreign governments.

a. If additional authority is needed from the FAA in order to conduct the proposed operations, the status of any application for that authority, and the name, telephone number, and address of the FAA personnel responsible for processing that application should be provided.

b. If no additional authority is needed, the name, address, and telephone number of the applicant's FAA principal operations inspector should be included.

5. The form of the applicant's organization (e.g., sole proprietorship, partnership, or corporation), and the state law(s) under which the applicant is organized and the date of incorporation or organization.

6. If the applicant is a corporation, a statement provided by the Office of the Secretary of State, or other agency of the state in which the applicant is incorporated, certifying that the applicant corporation is in good standing. This statement should reflect the applicant's corporate standing not more than one month prior to the date the application is filed.

7. A sworn affidavit stating that the applicant is a citizen of the United States.¹¹ (See Part IV of this packet for a sample of the affidavit required.) If any officers, directors, owners, or other persons who have the power to influence the applicant, whether through ownership, debt, or other interest, are not U.S. citizens, state the name and citizenship of each, and describe each such person's relationship to and interest in the applicant.

8. A description of the classes or types of the applicant's stock that are authorized and the number of shares of each class or type that are issued and outstanding.

9. A list of all persons (individuals or organizations) that own or control at least 10 percent of the stock of the applicant, indicating the number of voting shares and the corresponding percentage of the total shares outstanding that are held by each, along with their address, citizenship, and principal business.

¹¹ Section 40102(a)(15) of the Statute defines a "citizen of the United States" as: (1) an individual who is a citizen of the United States; (2) a partnership each of whose partners is a citizen of the United States; or (3) a corporation or association organized under the laws of a state, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, and in which at least 75 percent of the voting interest is owned by persons that are citizens of the United States. In addition to meeting these specific numerical standards, we have interpreted the Statute to require that a U.S. air carrier, in fact, be under the actual control of U.S. citizens.

a. If any stockholder is an organization, provide the name, address, citizenship, and principal business of the individuals who own or control at least 10 percent of the stock of the organization.

b. If the applicant's stock is held by someone for the benefit or account of a third party, give the name, citizenship, and principal business of that person or organization.

c. If any of these persons are related by blood or marriage or have had any financial interest in, or serve or have served as an officer or director of any other air carrier, common carrier, or person substantially engaged in the business of aeronautics or persons whose principal business (in purpose or fact) is the holding of stock in or control of any aviation-related entity, that relationship should be described.

d. If any person or organization holds options to convert debt to equity or one type of stock to another type, identify the person or organization and discuss the circumstances under which such conversion may occur.

10. A list of the applicant's operating divisions and subsidiaries, if any, or of any other company (including any air carrier, common carrier, or person substantially engaged in the business of aeronautics) in which the applicant has a financial interest. The principal business of each of these entities, and their relationship to the applicant should be discussed.

Management Expertise and Technical Ability

The purpose of this information is to demonstrate that the applicant has a sufficient number of qualified, competent personnel directing its operations who have the background and experience necessary for the kind of operations being undertaken.

Data Required

The following information concerning the existing and/or prospective key management personnel¹² should be submitted:

1. A chart showing positions and operating divisions within the organization that depicts which positions and functions report to whom.
2. Each key personnel's position and responsibilities with the applicant and the date employed or to be employed.¹³
 - a. If an individual has been employed with the applicant for a number of years, indicate all positions held during that time, with dates.
 - b. If any key person is employed or to be employed by the applicant on less than a full-time basis, state what percentage of the employee's time will be spent on the applicant's business, and provide details of his or her concurrent occupation(s).
3. A resume for each of the key personnel stating:
 - a. Full name, current address, and telephone numbers.
 - b. All previous employment (both aviation and non-aviation) including: name of employer, location (city, state), type of business, position held, description of responsibilities, and dates employed. If the previous employer held any aviation authority, state the type (*e.g.*, air taxi, commuter, fixed base operator, certificated air carrier). Any periods of unemployment should be accounted for.
 - c. Education and training, including names of institutions, dates attended, and any certificates or degrees received. If the person holds a certificate or license from the FAA (such as an Airline Transport Pilot or Airframe & Powerplant Mechanic license), these, including their numbers, should be listed, as well as the number of recorded hours of flying time for the Chief Pilot.

¹² "Key personnel" refers to the President, Chief Executive Officer, Chief Operating Officer, General Manager, Chief Financial Officer, and Vice President(s), if any, the Director of Operations, the Director of Maintenance, the Chief Pilot, the Director of Safety, and the Chief Inspector, as well as the Chairman and members of the Board or other key officials who may not be involved with the day-to-day operation of the company but who are primary stockholders and/or whose influence on the policy of the applicant is, or potentially could be, substantial.

¹³ In addition to the key personnel noted above, if the applicant proposes to contract out any maintenance or training functions, the corporate position that will be responsible for overseeing those contracts should be identified along with the name, background, and credentials of the individual selected for this position to oversee contracts of this type. The applicant should also indicate to whom in the corporate structure this position will report, how the oversight will be accomplished, and whether the position is part-time or full-time.

4. The citizenship of each such person.
5. The amount of stock (or other interest) held in the applicant, if any, by each.
6. A description of the officerships, directorships, stock (if 10 percent or more), or other interests each holds in any other air carrier, common carrier, or person substantially engaged in the business of aeronautics.
7. For the key technical personnel (Director of Operations, Director of Maintenance, Director of Safety, Chief Pilot, and Chief Inspector), a statement that these individuals meet the qualifications for their respective positions as set forth in sections 119.65 and 119.67 of the Federal Aviation Regulations (14 CFR 119.65 and 119.67) for companies operating under Part 121 or sections 119.69 and 119.71 (14 CFR 119.69 and 119.71) for companies operating under Part 135.

Financial Position and Operating Plans

This information will be used to assess the financial position of the applicant and whether the applicant has a reasonable understanding of the costs of starting its operations and has access to the capital required to commence operations. Before being granted an effective certificate, an applicant must provide independent, third-party verification that it has available to it resources (*e.g.*, cash, lines-of-credit, bank loans) sufficient to cover all of its pre-operating costs plus the operating expenses that are reasonably projected to be incurred by the applicant during three months of “normal” operations.¹⁴ In calculating available resources, projected revenues cannot be included.¹⁵

Data Required

The following financial information about the applicant should be provided:

1. Balance sheets and income statements of the applicant and all relevant corporations,¹⁶ together with their accompanying explanatory footnotes (including a description of the

¹⁴ Because projected expenses during the first several months of operations do not include all costs that will be incurred during a normal period of operations, the three-month standard is based on one-quarter of the first year’s operating cost forecast. In addition, if the applicant’s most recent balance sheet shows a negative working capital balance for any ongoing operation (*e.g.*, an air taxi, aircraft leasing, or fixed base operation), we will include the amount of that working capital deficit in calculating the amount of funds that the applicant must have available to meet our financial fitness criteria for the proposed commuter operations.

¹⁵ This financing guideline should not be considered a “zero revenue test”; that is, an applicant should not construct an artificial three-month projection showing reduced operating costs based on the theory that if there are no revenues there will be fewer variable flight and customer-related expenses, and that a smaller capital reserve will therefore be needed.

¹⁶ “Relevant corporation” is defined in Part 204 as the applicant, any predecessor of the applicant (including any company in which the directors, principal officers or owners have or once had a substantial interest, or any company whose operations were acquired by, or merged with, the

company's significant accounting policies, such as for depreciation, amortization of intangibles, overhauls, unearned revenues, and cost capitalization), for the three most recent calendar or fiscal years,¹⁷ and for a period ending no more than three months prior to the date of filing.

This requirement may be met by the submission of financial statements, preferably audited, or 10K and/or 10Q reports filed with the Securities and Exchange Commission.

a. The financial documents should include a statement as to who prepared them, his or her qualifications and relationship, if any, to the applicant, and whether they were prepared in accordance with Generally Accepted Accounting Principles.

b. If an annual audit, review, or compilation by an independent CPA is performed, the name and address of the firm, and type of services provided should be listed.

2. Statements which include a description of the following:

a. Any liens or encumbrances against any of the applicant's or any relevant corporation's assets, including those pledged as collateral for any outstanding obligations.

b. Any major commitments into which the applicant or any relevant corporation has entered during the past 6 months, or proposes to enter into during the next 6 months, including bank or other institutional financing, private financing, issuance of bonds or stock in the applicant, or major contracts to perform services.

c. Any transactions in which the applicant or any relevant corporation sold or exchanged any major assets (aircraft, land, buildings, etc.) during the past 6 months, or plans to sell or exchange within the next 6 months, including how any funds realized from those transactions were, or are intended to be, used.

d. Any liabilities of the applicant or any relevant corporation that are more than 60 days past due at the time of the application, including the amount and the circumstances under which they are past due and will be paid.

applicant), or any organization which has a significant financial or managerial influence on the applicant, *e.g.*, (1) a parent corporation; (2) any entity that holds more than 50 percent of the outstanding voting stock of the applicant; (3) any entity that holds between 20 and 50 percent of such stock and that also has at least a 25 percent representation on the board of directors, participates in policy-making processes, engages in substantial inter-company transactions, or has managerial personnel with common responsibilities in both companies; and (4) any subsidiary of the applicant.

¹⁷ If an applicant has been in business less than three years, only information for as long as it has been in business is required, unless there is a predecessor company. In the latter instance, information on the predecessor company is necessary. For new companies (those without any prior operations), a pre-operating balance sheet giving a complete description of the financial resources available to mount the proposed services should be filed.

e. Any contingent liabilities that may have an effect on the applicant's or any relevant corporation's financial posture (*e.g.*, lawsuits, pending judgments), including plans to meet those obligations.

f. Any events that occurred after the preparation of the most recent financial statements that may have a significant impact on the financial position or on the operations of the applicant or any relevant corporation. If no such events have occurred, provide a statement to that effect.

3. The applicant's service proposal and a forecast balance sheet and profit and loss statement (broken down by month or by quarter) for the first normal year of commuter operations. These documents should include ample notes explaining the basis for the amounts shown and whether the statements were prepared on a cash or accrual basis. The description should be in sufficient detail to allow the Department's staff to replicate the mathematics involved and to determine the reasonableness of the forecast.

The revenue forecast should indicate:¹⁸

a. For applicants for *scheduled* authority, the proposed markets and number of daily flights in each market; for applicants for *charter* authority, the types of charters to be operated (*e.g.*, public, single-entity, Department of Defense) and the proposed geographic areas to be served.

b. The type, model, seating/cargo capacity, and number of the aircraft to be used.

c. The number of passengers or amount of cargo to be carried and expected load factors.

d. The fares or rates to be charged, and the resulting gross revenues.

e. The total number of revenue block hours and revenue miles expected to be flown, and the extent of any seasonal traffic peaks.

The expense data should show:

a. Detail by expense category (direct and indirect), indicating how the amounts were computed. Applicants proposing to operate more than one aircraft type or model should include separate estimates of expenses for training, maintenance, preparation of manuals, etc., for each aircraft type or model.

¹⁸ If the applicant so requests under 14 CFR 302.12, the Department will generally grant confidential treatment to information identifying the specific markets to be served, proposed frequency of service, fares, estimated revenue passenger miles and available seat miles, and projected load factor. However, if the applicant requests confidential treatment of information identifying its proposed markets and related traffic forecasts, it must provide for the public record a brief description of the type of markets/cities to be served (*i.e.*, short-, medium-, or long-haul markets, from small, mid-size, or large cities).

b. For indirect expenses, if the applicant is engaged in other aviation-related (*e.g.*, fixed base operation) operations, expenses should be allocated on a rational basis between the proposed commuter operations and the other operations, with appropriate explanations. The applicant should prepare a consolidated forecast income statement for the entire business as well as separate forecast statements for each operating segment, including the proposed commuter operation.

c. If aircraft or other facilities are to be acquired to conduct the proposed services, a description of the plans for obtaining and financing those items should be provided.

4. An estimate of the amount of capital the applicant will need to commence operations which shows (1) the basis of the estimate (*e.g.*, the amounts for pre-operating costs, including aircraft deposits or leases, office and hangar space, insurance, salaries, training, preparation of FAA manuals, working capital, etc.), and (2) the proposed form and source of capital.

a. If the resources of an individual or other organization will be made available to the applicant in order to sustain operations, provide a statement from the individual or organization of the amount of such available resources and the terms or conditions under which such funds will be provided. Copies of the personal or corporate financial statements of the individual or organization should also be provided. The liquidity of any assets, other than cash, should be made clear through appropriate footnotes, *e.g.*, the current market value of stocks and bonds that can be readily converted to cash should be noted. Wherever possible, third-party verification of the assets and values should be provided (*e.g.*, letters from banks or stockbrokers holding liquid assets, or recent appraisals of real assets).

b. If borrowed capital or a line-of-credit is to be employed, the total amount, current balance, source, security, provisions to convert the debt to equity, and terms of repayment to the lender should be stated. Verification of this information from the lender should be provided.

c. If financing is to be obtained through a private stock offering, verification from the underwriter as to the status of the offering should be provided and copies of private placement agreements or offering documents should be submitted. If capital is to be sought through a public stock offering, copies of the offering documents filed with the Securities and Exchange Commission should be included.

d. A letter from the applicant's bank confirming the amount on deposit and bank loans and lines-of-credit, if any, should be provided.

5. A description of all outstanding judgments against the applicant, relevant corporations, key personnel employed by each, or any person having a substantial interest in the applicant.

- a. For judgments of more than \$5,000, include a brief summary of the circumstances leading to each judgment, the amount of each judgment, the party to whom it is payable, how long it has been outstanding, and its current status.
- b. For judgments of less than \$5,000, the list need only identify the company or person involved and the total amount of the judgment still owed.

Compliance Disposition

The purpose of evaluating compliance disposition is to assure that the company and the personnel running the company do and will abide by the laws, rules, and regulations governing the applicant's operations and that management will be diligent in maintaining safe operations.

Data Required

The following information about compliance by the applicant, its owners, related companies, and their key personnel with the laws, rules, and regulations governing the applicant's services should be filed:

1. A description of the current status of all pending investigations, enforcement actions, and formal complaints filed with or instituted by the Department, including the FAA, involving the applicant, relevant corporations, their key personnel (employed or to be employed) or persons having a substantial (*i.e.*, 10 percent or more) interest in any of these companies, involving the Statute, and the rules and regulations of the Department, including the FAA.

- a. If any of these persons were affiliated (as a partner, officer, director, or stockholder) with any air carrier which, at the time of such affiliation, was found to have committed knowing, willful violations of the Statute or any order, rule or regulation issued pursuant to that Statute, such actions should be described.

- b. The complaint or action should be identified, together with a brief summary of the circumstances and the current status.¹⁹ By “actions” or “complaints,” we mean those that have actually been filed with or taken by some official agency such as the Department, including the FAA, or a state, irrespective of whether the company or person believes it was or is guilty. For example, if the FAA proposed a civil penalty in an enforcement action against a company and the company made a compromise payment in settlement, that FAA action must be considered, even though the payment may not have been an admission of guilt.

¹⁹ Special attention should be paid to the Directors of Maintenance, Operations, and Safety and the Chief Pilot and Chief Inspector, as persons holding these positions are more likely than others to be cited for FAA violations.

2. A description of any charges (civil or criminal) within the past 10 years brought against any of the persons or companies listed above, of fraud, felony, or antitrust violations, or of unfair, anticompetitive or deceptive business practices, including their final disposition or current status.

3. A description of any aviation-related accidents or incidents which the applicant, its personnel, or any relevant corporation has had either during the year preceding the date of the application, or at any time in the past if the matter remains under investigation by the FAA, the NTSB, or by the company itself. This includes:

a. The date of the occurrence, the type of flight (Part 135, Part 121, etc.), the number of passengers on board, the extent of injuries to persons and damage to the aircraft, the name of the pilot, and any other pertinent information available. Copies of the pilot's reports, if available, should be filed.

b. The FAA and the NTSB file numbers, if known, for each accident and incident, and the findings of the NTSB and/or the FAA, including any violations cited against the company or any of its personnel, and any positive actions taken by the company as a result of the occurrence, if any were appropriate.

4. The following certification: "Pursuant to Title 18 United States Code Section 1001, I [*the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant*], in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both." This certification must also be included in all subsequent written submissions filed by the applicant in connection with its application.

Reliability

This information, which is required *only* about an applicant that wishes to be designated by the Department to provide "essential air service," will be used to assess the operational reliability of the applicant as it relates to its ability to provide safe and continuous operations and to assure protection of customers' funds. The first two items assure that an applicant has sufficient fuel to maintain regular operations and adequate aircraft ready to substitute in the event a plane scheduled to operate is not available. On-time and completion records are used to determine how often a company performs its flights as scheduled. Acceptable completion and on-time performance factors may vary depending on the applicant's route structure, aircraft utilization, average stage length, flight schedules, and weather conditions. A review of the state agency consumer complaint records may provide additional background on problems the carrier may be experiencing which have a bearing on its reliability.

Data Required

The following information should be provided:

1. A description of back-up equipment. This includes identifying the number and type of back-up aircraft and any conditions under which such aircraft will be available for use.
2. A description of fuel arrangements, including the cost of fuel and whether it is purchased on the spot market or contracted for with fuel suppliers and from whom.
3. The most recent year's system-wide on-time and completion records, that is, the number of departures scheduled and performed in scheduled service²⁰ and the number of performed flights which arrived within 15 minutes of the scheduled arrival time.
4. Statements from the state agencies and offices which handle consumer complaints for each of the states in which the company operates, regarding the company's consumer complaint record for the preceding three years. In lieu of supplying this statement, the company may provide the name, address, and telephone number of each of the state officials to be contacted.

OTHER REQUIREMENTS

Prior to conducting any scheduled passenger operations, a commuter air carrier must also meet the insurance requirements set forth in Part 205 of the Department's rules, and become a signatory to the Interim Agreement of carriers, which relates to higher limits of liability for international passengers. This latter requirement applies whether or not the applicant proposes to provide foreign air transportation. (Part 205 is reprinted in Part III of this packet. Blank copies of the Certificate of Insurance (OST Form 6410) and the Interim Agreement (OST Form 4523) are in Part IV of this packet.)

Once a company has been found fit, it becomes subject to the requirements of section 41110(e) of the Statute, which provides that the company must remain fit in order to continue to hold authority to provide scheduled passenger air transportation services. In order to ensure that a company remains fit after it is given effective authority, the Department will require the company to provide a "progress report" twelve (12) months after it commences operations. This report (an original plus one copy) would include information on the company's current operations, including aircraft fleet, future operating and expansion plans, updated financial statements, and information on whether the company had undergone any changes in ownership or management.

Moreover, if, after the commencement of commuter service, substantial changes are planned, such as a change in ownership, a major change in the management team, a major expansion in operations, or a filing for protection from creditors under Chapter 11 of the

²⁰ If the company files Form 298-C reports, it will not have to furnish the number of scheduled and performed departures.

U.S. Bankruptcy Code, the Air Carrier Fitness Division must be notified promptly so it may determine whether the company will remain fit to operate. In the case of a proposed change in ownership, restructuring, or recapitalization, carriers are requested to provide a notification thirty (30) days in advance of the scheduled closing. After receiving the company's description of the proposed substantial change, the staff of the Air Carrier Fitness Division will inform the company what additional information it must file to support its fitness to continue operating in light of the proposed change.

In addition, if a company does not institute commuter air services within one year of being found fit by the Department to do so, its commuter authority will be terminated for reason of dormancy as provided in section 204.7(a) of the Department's Regulations.

On the other hand, if a company starts its commuter service within one year and subsequently ceases that service, its commuter authority is automatically suspended and it has one year from the date of cessation to resume service or its commuter authority will be terminated. (See section 204.7(b) contained in Part III of this packet). Any carrier proposing to resume service within the one year must file with the Air Carrier Fitness Division, at least 45 days before the date on which service is expected to resume, an original plus one copy of a notice of such intent and the updated fitness information required by section 204.3, and must be authorized by the Department to recommence service. If the carrier wishes to resume air service in less than 45 days, it may request a waiver of the 45-day advance notice requirements of section 204.7. Any such waiver request (original plus one copy) must be filed with the Air Carrier Fitness Division and be accompanied by a \$280 filing fee. (Sample filings are contained in Part II of this packet.)

If, however, the carrier will not be able to recommence operations before the end of one year, it may request a waiver of the revocation provisions of section 204.7. Such waivers are not granted routinely, but only where "good cause" is shown. In showing good cause, the company would have to provide adequate evidence that it still meets the Department's fitness criteria and that it has completed nearly all of the steps to resume operations (*e.g.*, has the necessary personnel, financial resources, and aircraft, and has resolved any problems with the FAA). The waiver request (an original plus one copy) must be filed before the end of the one-year dormancy period with the Air Carrier Fitness Division and be accompanied by a \$280 filing fee. (Sample filings are contained in Part II of this packet.)

Commuter authority is not transferable without prior Department approval. Applications for transfer of commuter authority (an original plus one copy) should be filed jointly by the transferor and the transferee with the Air Carrier Fitness Division at least three months in advance of the proposed effective date of the transfer. Additional time would be required if objections are filed or complex or unusual issues are raised by the application. The applicable filing fee is \$290. Applicants for the transfer of commuter authority should describe the circumstances of the transfer and attach evidence supporting the fitness of the transferee as set forth in section 204.3. In addition, a balance sheet for the air carrier immediately prior to and immediately following the projected closing date of the acquisition, as well as copies of all agreements between the transferor and transferee, should be filed. (A sample filing is contained in Part II of this packet.)

PART II

SAMPLE APPLICATIONS

The following are sample applications which may be used as guides in preparing (1) application for commuter air carrier authority, (2) motion to withhold information from public disclosure, (3) notice of intent to resume operations following a cessation, (4) application for a waiver of the 45-day advance filing requirement of 14 CFR 204.7, (5) application for a waiver of the revocation-for-dormancy provisions of 14 CFR 204.7, and (6) application for the transfer of commuter air carrier authority. The information in the brackets [] should be filled in or deleted as appropriate. Material in support of the applicant's fitness should be submitted as exhibits or attachments to the application.

SAMPLE APPLICATION

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF APPLICANT]

for authority to conduct scheduled passenger operations as a
commuter air carrier under 49 U.S.C. 41738

DOCKET

APPLICATION OF
[NAME OF APPLICANT]

Communications with respect to this document should be sent to:

*[Name, address and telephone
number of persons to be contacted]*

[Date of Application]

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[*NAME OF APPLICANT*]

for authority to conduct scheduled passenger operations as a
commuter air carrier under 49 U.S.C. 41738

DOCKET

**APPLICATION OF
[*NAME OF APPLICANT*]**

[*Name of Applicant*] submits this application for authority to operate scheduled passenger service as a commuter air carrier under section 41738 of Title 49 of the United States Code ("the Statute").

In support of its application [*Name of Applicant*] states the following:

Applicant is a [*corporation*] [*partnership*] [*sole proprietorship*] organized on [*date*] under the laws of the State of _____. Its address and telephone are:

Applicant is a citizen of the United States as defined in section 40102(a)(15) of the Statute.

Applicant is [*newly formed*] [*currently engaged in (describe current business)*].

Applicant requests authority to engage in scheduled passenger operations as a commuter and proposes to operate:

[*Describe proposed operations, including markets to be served, and aircraft to be used.*]

Information in support of the applicant's fitness to conduct the proposed air transportation operations is attached.

The contents of this application and the attached exhibit(s) are true and correct to the best of my knowledge and belief. Pursuant to Title 18 United States Code Section 1001, I [*the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant*], in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

Respectfully submitted,

[*Signature and Title*]

Attachments [*certificate of service and information required under section 204.3 or 204.4*]

SAMPLE CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served the foregoing application for commuter air carrier authority by first class mail, postage prepaid, upon the persons shown in the following service list.

[Signature and title]

[Date of Service]

SERVICE LIST

[The service list should contain the names and addresses of (1) the FAA Flight Standards District Office serving as the applicant's FAA certificate management office or that is processing the applicant's request for FAA operating authority; and (2) the airport authority of each airport that the applicant proposes to serve.]

*SAMPLE MOTION FOR CONFIDENTIAL
TREATMENT OF DOCUMENTS*

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF APPLICANT]

for authority to conduct scheduled passenger operations as a
commuter air carrier under 49 U.S.C. 41738

DOCKET

**MOTION OF *[NAME OF APPLICANT]*
TO WITHHOLD INFORMATION FROM PUBLIC DISCLOSURE**

Communications with respect to this document should be sent to:

*[Name, address and telephone
number of persons to be contacted]*

[Date of Application]

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF APPLICANT]

for authority to conduct scheduled passenger operations as a
commuter air carrier under 49 U.S.C. 41738

DOCKET

**MOTION OF [NAME OF APPLICANT]
TO WITHHOLD INFORMATION FROM PUBLIC DISCLOSURE**

Pursuant to section 302.12 of the Department's Rules of Practice, [*name of applicant*] hereby moves to withhold from public disclosure [*specify material to be withheld, e.g., Exhibits 2, 5 and 7 to the above-captioned application for the issuance of commuter air carrier authority*]. These documents are being filed with this Motion in a sealed envelope marked "Confidential Materials - Rule 12 Treatment Requested." In support of this Motion, [*name of applicant*] submits the following:

[*For each document for which non-disclosure is requested, describe the document in general terms (e.g., the applicant's internal business or marketing plan, letter of intent from aircraft lessor, shareholder agreement, personal financial statements of owner or lender).*]

The information [*name of applicant*] seeks to withhold from public disclosure is (1) commercial or financial, (2) obtained from a person outside the government, and (3) privileged or confidential. Moreover, release of this information would cause substantial harm to the competitive position of [*name of applicant*] or the individual from whom the information was obtained.

[*Explain how the information for which non-disclosure is requested falls into one or more of the categories discussed in the preceding paragraph. E.g., "Exhibit 3 contains sensitive financial and commercial information, including proprietary details of the applicant's marketing research, that could be used by competitors to impede the applicant's plans to undertake the proposed air service. Moreover, the information in this exhibit is highly detailed and would not otherwise be made accessible to persons outside the company."*] Therefore, this information should be afforded confidential treatment by the Department.

THUS, *[name of applicant]* requests that *[identify documents]*, submitted in a sealed enveloped with this Motion, be accorded confidential treatment under Rule 12.

Respectfully submitted,

[Signature and Title]

Attachments *[certificate of service and information for which confidential treatment is requested, which shall be attached to the motion in a sealed envelope with the name of the applicant, authority requested, docket number, and the notation: “Confidential Materials - Rule 12 Treatment Requested.”]*

SAMPLE CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served the foregoing motion for confidential treatment of documents by first class mail, postage prepaid, upon the persons shown in the following service list.

[Signature and title]

[Date of Service]

SERVICE LIST

[The service list should contain the names and addresses of (1) the FAA Flight Standards District Office serving as the applicant's FAA certificate management office or that is processing the applicant's request for FAA operating authority; and (2) the airport authority of each airport that the applicant proposes to serve.]

*SAMPLE NOTICE OF INTENT TO RESUME SERVICE
FOLLOWING A CESSATION OF OPERATIONS*

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Notice of

[NAME OF CARRIER APPLICANT]

of its intent to resume commuter air service following a
cessation of operations pursuant to 14 CFR 204.7

DOCKET

NOTICE OF
[NAME OF CARRIER APPLICANT]

Communications with respect to this document should be sent to:

*[Name, address and telephone
number of persons to be contacted]*

[Date of Notice]

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Notice of

[NAME OF CARRIER APPLICANT]

of its intent to resume commuter air service following a
cessation of operations pursuant to 14 CFR 204.7

DOCKET

NOTICE OF
[NAME OF CARRIER APPLICANT]

Pursuant to section 204.7 of the Department's regulations, [Name of Applicant] submits this notice of its intent to resume commuter air service under section 41738 of Title 49 of the United States Code ("the Statute"), following a cessation of operations.

[Describe circumstances surrounding the cessation of operations and the proposed recommencement of operations.]

Information in support of the carrier's fitness to resume the proposed air transportation operations is contained in [Exhibits] [Attachments] 1 through ____.

The contents of this application and the attached exhibit(s) are true and correct to the best of my knowledge and belief. Pursuant to Title 18 United States Code Section 1001, I [the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant], in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

WHEREFORE, [Name of Carrier Applicant] respectfully requests that the Department find it to be fit to resume commuter air service, and grant any such other relief as it may find to be in the public interest.

Respectfully submitted,

[Signature and Title]

Attachments [*certificate of service and exhibits and information required under section 204.3*]

SAMPLE CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served the foregoing notice of intent to resume commuter operations pursuant to 14 CFR 204.7 by first class mail, postage prepaid, upon the persons shown in the following service list.

[Signature and title]

[Date of Service]

SERVICE LIST

[The service list should contain the names and addresses of (1) the FAA Flight Standards District Office serving as the applicant's FAA certificate management office or that is processing the applicant's request for FAA operating authority; and (2) the airport authority of each airport that the applicant proposes to serve.]

*SAMPLE APPLICATION FOR A WAIVER OF THE 45-DAY
ADVANCE FILING REQUIREMENTS OF 14 CFR 204.7*

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF CARRIER APPLICANT]

for a waiver of the 45-day advance filing requirements of
14 CFR 204.7 and notice of intent to resume commuter air
service following a cessation of operations

DOCKET

APPLICATION OF
[NAME OF CARRIER APPLICANT]

Communications with respect to this document should be sent to:

*[Name, address and telephone
number of persons to be contacted]*

[Date of Application]

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF CARRIER APPLICANT]

for a waiver of the 45-day advance filing requirements of
14 CFR 204.7 and notice of intent to resume commuter air
service following a cessation of operations

DOCKET

APPLICATION OF
[NAME OF CARRIER APPLICANT]

[Name of Carrier Applicant] submits this application for a waiver of 14 CFR 204.7 so that it may resume commuter air service operations within 45 days of the date of this filing.

In support of its application [Name of Applicant] states the following:

[Describe the circumstances surrounding the cessation of operations, the proposed recommencement of operations, why the waiver is needed, and why the Department should grant the waiver and allow the resumption of service.]

Information in support of the applicant's waiver application and fitness to resume the proposed commuter operations is contained in [Exhibits] [Attachments] 1 through ____.

The contents of this application and the attached exhibit(s) are true and correct to the best of my knowledge and belief. Pursuant to Title 18 United States Code Section 1001, I [the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant], in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

WHEREFORE, [Name of Carrier Applicant] respectfully requests that the Department grant the waiver and determine that [Name of Carrier Applicant] is fit to resume

commuter air service, and grant any such other relief as it may find to be in the public interest.

Respectfully submitted,

[Signature and Title]

Attachments [*certificate of service and exhibits and information required under section 204.3*]

SAMPLE CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served the foregoing application for a waiver of the 45-day advance filing requirements and notice of intent to resume commuter operations pursuant to 14 CFR 204.7 by first class mail, postage prepaid, upon the persons shown in the following service list.

[Signature and title]

[Date of Service]

SERVICE LIST

[The service list should contain the names and addresses of (1) the FAA Flight Standards District Office serving as the applicant's FAA certificate management office or that is processing the applicant's request for FAA operating authority; and (2) the airport authority of each airport that the applicant proposes to serve.]

*SAMPLE APPLICATION FOR A WAIVER OF THE
REVOCATION FOR DORMANCY PROVISIONS OF 14 CFR 204.7*

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF CARRIER APPLICANT]

for a waiver of the revocation for dormancy provisions of
14 CFR 204.7 *[and notice of intent to resume commuter air
service following a cessation of operations]*

DOCKET

APPLICATION OF
[NAME OF CARRIER APPLICANT]

Communications with respect to this document should be sent to:

*[Name, address and telephone
number of persons to be contacted]*

[Date of Application]

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF CARRIER APPLICANT]

DOCKET

for a waiver of the revocation for dormancy provisions of
14 CFR 204.7 [*and notice of intent to resume commuter air
service following a cessation of operations*]

**APPLICATION OF
[NAME OF CARRIER APPLICANT]**

[Name of Carrier Applicant] submits this application for a waiver of the revocation-for-dormancy provisions of 14 CFR 204.7 so that it may resume commuter air service.

In support of its application [Name of Applicant] states the following:

[Describe the circumstances surrounding the cessation of operations, the proposed recommencement of operations, why the waiver is needed, how much additional time the applicant needs before operations can resume, and why the Department should grant the waiver and allow the resumption of service.]

Information in support of the applicant's waiver application and fitness to resume the proposed air transportation operations is contained in [Exhibits] [Attachments] 1 through ____.

The contents of this application and the attached exhibit(s) are true and correct to the best of my knowledge and belief. Pursuant to Title 18 United States Code Section 1001, I [*the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant*], in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

WHEREFORE, [Name of Carrier Applicant] respectfully requests that the Department grant the waiver and determine that [Name of Carrier Applicant] is fit to resume

commuter air service, and grant any such other relief as it may find to be in the public interest.

Respectfully submitted,

[Signature and Title]

Attachments [*certificate of service, and exhibits and information required under section 204.3*]

SAMPLE CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served the foregoing application for a waiver of the revocation for dormancy provisions of 14 CFR 204.7 [*and notice of intent to resume commuter air service following a cessation of operations*] by first class mail, postage prepaid, upon the persons shown in the following service list.

[*Signature and title*]

[*Date of Service*]

SERVICE LIST

[*The service list should contain the names and addresses of (1) the FAA Flight Standards District Office serving as the applicant's FAA certificate management office or processing the applicant's request for FAA operating authority; and (2) the airport authority of each airport that the applicant proposes to serve.*]

*SAMPLE APPLICATION FOR THE TRANSFER OF
COMMUTER AIR CARRIER AUTHORITY*

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF TRANSFEROR APPLICANT]

and

[NAME OF TRANSFEREE APPLICANT]

for the transfer of commuter air carrier authority under
49 U.S.C. 41738

DOCKET

APPLICATION OF
[NAME OF APPLICANTS]

Communications with respect to this document should be sent to:

*[Name, address and telephone
number of persons to be contacted]*

[Date of Application]

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF TRANSFEROR APPLICANT]

and

[NAME OF TRANSFEREE APPLICANT]

for the transfer of commuter air carrier authority under
49 U.S.C. 41738

DOCKET

**APPLICATION OF
[NAME OF APPLICANTS]**

[Names of Applicants] submit this application for the transfer to [Name of Transferee] of the commuter air carrier authority issued to [Name of Transferor] by Order [CAB or DOT Order Number] on [date] pursuant to section 41738 of Title 49 of the United States Code ("the Statute").

In support of its application [Names of Applicants] state the following:

[Describe the circumstances of the proposed transfer and reasons why the Department should approve it.]

Information in support of [Name of Transferee]'s fitness to conduct the proposed air transportation operations is contained in [Exhibits] [Attachments] 1 through ____.

[The following certification shall be signed by a representative of the transferor and the transferee.]

The contents of this application and the attached exhibit(s) are true and correct to the best of my knowledge and belief. Pursuant to Title 18 United States Code Section 1001, I [the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant], in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent

statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

WHEREFORE, [*Names of Applicants*] respectfully request that the Department grant this application, and any such other relief as it may find to be in the public interest.

Respectfully submitted,

[*Signatures and Titles*]

Attachments [*certificate of service and exhibits and information required under section 204.3*]

SAMPLE CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served the foregoing application for the transfer of commuter air carrier authority under 49 U.S.C. 41738 by first class mail, postage prepaid, upon the persons shown in the following service list.

[Signature and title]

[Date of Service]

SERVICE LIST

[The service list should contain the names and addresses of (1) the FAA Flight Standards District Office(s) that have been and will be overseeing the applicants' operations; and (2) the airport authority of each airport that the applicants propose to serve.]

PART III

APPLICABLE DEPARTMENT OF TRANSPORTATION REGULATIONS

14 CFR Parts 200, 201, 203, 204, 205, 298, and 302

PART IV

SAMPLE FORMS

AFFIDAVIT OF CITIZENSHIP

STATE OF _____

COUNTY OF _____

_____ *[name]* _____ being first duly sworn, deposes and says:

1. That he/she is duly elected, qualified, and serving as _____ *[officer]* _____
of _____ *[applicant's name]* _____ and that he/she is authorized to and does
make this affidavit for it.

2. That _____ *[applicant's name]* _____ is a citizen of the United States
within the meaning of 49 U.S.C. 40102(a)(15).

_____ *[signature]* _____.

Subscribed and sworn to before me this _____ day of _____, 200_.

_____ *[signature of Notary Public]* _____.

(SEAL)

AFFIDAVIT OF SAFETY COMPLIANCE

STATE OF _____

COUNTY OF _____

_____ *[name]* being first duly sworn, deposes and says:

1. That he/she is duly elected, qualified, and serving as _____ *[officer]* _____.

of _____ *[applicant's name]* _____ and that he/she is authorized to and
does make this affidavit for it.

2. That all aircraft owned and leased by _____ *[applicant's name]* _____.

have been certified by the Federal Aviation Administration and currently comply with
all applicable Federal Aviation Administration safety standards under Parts *[121]* *[135]*,
as well as the noise standards of Part 36, of the Federal Aviation Regulations.

_____ *[signature]* _____.

Subscribed and sworn to before me this _____ day of _____, 200_.

_____ *[signature of Notary Public]* _____.

(SEAL)

INSTRUCTIONS FOR COMPLETING OST FORM 4507

Complete all numbered areas of OST form 4507 according to the following instructions and file this form **in duplicate**, accompanied by the appropriate filing fee made payable to “U.S. Department of Transportation.” The Department does not accept fax copies as official evidence of registration. **Air Taxi** registrations (i.e., those involving operations *other than* scheduled passenger service) should be filed with the Federal Aviation Administration, Air Transportation Division, AFS-200, 800 Independence Avenue, SW, Washington, DC 20591. **Commuter Air Carrier** registrations (i.e., those involving scheduled passenger service) should be filed with the Department of Transportation, Air Carrier Fitness Division, X-56, 400 7th Street, SW, Washington, DC 20590.

The initial registration fee is \$8.00 for air taxis and \$670.00 for commuter air carriers. Amendments proposing a change in status from air taxi to commuter service require a \$670.00 filing fee. There is no charge for all other amendments. Initial registrations or amendments proposing commuter air carrier operations should also be accompanied by the information to establish fitness as required by 14 CFR 204.3.

Please type all information required (except the signature) or print legibly.

Block 1. Indicate the full name of your company as it is recorded on your FAA Air Carrier Certificate, and your mailing address, including zip code. If you are doing business under one or more names which are different from your corporate name, include those names in this block as “DBA” [“Doing Business As”]. If you are registering for the first time and have not as yet been issued an FAA certificate, indicate the name which will appear on that certificate when issued. Provide your telephone number, including area code, and, if available, fax number, to allow us to contact you if we have questions about your registration or need additional information.

Block 2. Indicate the address of your principal place of business if it is different from the mailing address indicated in Block 1, and your area code, telephone number, and fax number, if available.

Block 3. Indicate your FAA Air Carrier Certificate number (if any) and the address and telephone number of your local FAA Flight Standards District Office (FSDO). Provide the name of your FAA Principal Operations Inspector.

Block 4. Check “Initial” if this is the first time you are registering, and indicate the proposed date when you plan to begin operations. [Please note that your insurance coverage must go into effect no later than this date.]

If your company has had authority in the past which was canceled—either voluntarily or involuntarily—you must register as an “Initial” filing and pay the \$8.00 registration fee. “Amendments to reflect changes since previous filing” should be used only if you have already registered and have current economic authority from the Department.

Amended registrations must be submitted to report changes in the information on file concerning your operations. Changes in any item on OST Form 4507, including additions or deletions of listed aircraft, change of name or address, changes in type of operations performed, or cessation of operations are to be reported to the Department no later than 30 days after the change has occurred. All changes (other than notice of cessation of operations) should be made on new OST Form 4507.

Block 5. Check whether you are currently performing (or intend to perform when you start operations) scheduled passenger or cargo service, on-demand passenger or cargo service, air ambulance operations, or any other services. You should not check **“Scheduled Passenger”** unless you perform, or propose to perform when you begin operations, at least five round trips per week on at least one route between two or more points and publish flight schedules which specify the times, days of the week, and points where such flights are performed. If you are proposing to perform scheduled passenger service for the first time, you may not begin such service until your company has been found “fit, willing, and able” by the Department. [See Part I of this packet.]

Block 6. List all aircraft that you operate or propose to operate in air taxi service, including the FAA registration number (the “N” number) and the number of passenger seats installed in each aircraft. Do not include seats occupied by the pilot and copilot unless the latter is available for passenger use. The FAA registration number of each aircraft must correspond exactly to the number listed on the certificate of insurance covering your operations. **You must report to the Department within 30 days any additions or deletions of aircraft made after your initial registration.** We cannot accept notices from the insurance company deleting aircraft from the insurance policy as evidence that you have deleted such aircraft from your operating fleet.

Block 7. Check whether your company is a U.S. citizen. Subtitle VII of Title 49 of the United States Code (the statute) requires that an air carrier registered under Part 298 must be a citizen of the United States. Section 40102(a)(15) of the statute defines a *U.S. citizen* as (a) an individual who is a U.S. citizen; (b) a partnership of which each member is a U.S. citizen; or (c) a corporation of which the President and two-thirds or more of the Officers and Directors are U.S. citizens and at least 75 percent of the voting stock is owned by U.S. citizens.

Block 8. Complete this item only if you have registered previously with the Department. Check whether you have carried any passengers during the last 12 months in foreign air transportation, *i.e.*, from the U.S. to another country.

Block 9. This block should be used only when you are reporting *changes* to information on file which occur after you have registered. If you are reporting a change in your company’s name, the former name should be indicated here, and the new name should be listed in Block 1.

Block 10. This form must be signed by a responsible officer of the carrier, such as the President, Vice President, Secretary, Treasurer, partner, or owner. Please indicate the date and place of signing, as well as the name and title of the person signing the certification. Be sure to type or print the name and title below the signature.

INSTRUCTIONS FOR COMPLETING CERTIFICATE OF INSURANCE -- OST FORM 6410

OST Form 6410 is to be completed by an officer or authorized representative of an insurance company or broker and an original, signed copy is to be filed with: Flight Standards Service (AFS-260), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591. However, certificates for U.S. commuter air carriers should be filed with: Air Carrier Fitness Division (X-56), Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

Line 1. Enter name and address of the insurance company.

Lines 2-3. Enter name and address of air carrier insured by the policy. If an insurance policy is issued to a person or company other than the air carrier, the certificate of insurance must state that the air carrier is also covered under that policy.

Line 4. Enter the effective date of the policy. Note that the policy must remain in effect and cannot be cancelled on less than ten days' written notice to the Department.

Section 1. State whether the insurance company is licensed to issue aircraft insurance policies in the United States or by a foreign government or is an approved surplus lines insurer. Note that more than one block may be checked.

Section 2. Part A. U.S. Air Taxi Operators with Part 298 Authority Only. This part should be completed only for air taxi operators with authority under Part 298 to operate aircraft having **60 seats or less** or a **payload capacity of 18,000 pounds or less, not in scheduled passenger service.** Indicate whether the insured air carrier has separate coverages or combined coverage by marking the appropriate block and placing the policy number and amount of coverage in the specified places. Please note that the minimum limits of liability required by the Department are already listed on the certificate.

Section 2. Part B. U.S. Commuter and Certificated Air Carriers Operating Small Aircraft. This part should be completed only for commuter or certificated air carriers operating aircraft that have **60 seats or less** or a **payload capacity of 18,000 pounds or less.** Indicate whether the insured air carrier has separate coverages or combined coverage by marking the appropriate block and placing the policy number and amount of coverage in the specified places. Please note that the minimum limits of liability required by the Department are already listed on the certificate.

Section 2. Part C. U.S. Certificated Air Carriers Operating Large Aircraft. This part should be completed only for certificated air carriers operating aircraft that have **more than 60 seats** or a **payload capacity of more than 18,000 pounds.** Indicate whether the insured air carrier has separate coverages or combined coverage by marking the appropriate block and placing the policy number and amount of coverage in the specified places. Please note that the minimum limits of liability required by the Department are already listed on the certificate.

Section 3 Indicate whether the policy covers (1) all aircraft operated by the insured air carrier, or (2) specify the general groups or types of aircraft which the policy covers, or (3) the FAA registration number and the type of each aircraft covered by the policy (use additional page if necessary). For air taxi operators and commuter air carriers: All aircraft listed on OST Form 4507

must be covered by a currently effective certificate of insurance and the FAA registration number of such aircraft must conform exactly to that listed on OST Form 4507.

Section 4. Indicate name, address, contact person, and telephone numbers (office/fax) of insurer and, if applicable, of the broker. This form must be signed by an officer or authorized representative of the insurance company or broker.

OST Forms 4507 and 6410 are not reproduced in the Internet version of this booklet. A copy of these forms may be obtained from the Air Carrier Fitness Division (X-56), Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366-9721, or a copy may be viewed and printed at the following Internet site:

<http://ostpxweb.dot.gov/aviation>

At this site, click on “International and Domestic Aviation” then click on “Economic Authority” and scroll down and click on either “OST Form 4507” or “OST Form 6410”.

**INTERIM AGREEMENT OF AIR CARRIERS
("MONTREAL AGREEMENT")
EXPLANATORY STATEMENT**

In 1934, the United States became a party to an international agreement, generally known as the Warsaw Convention, which was the first agreement between countries to provide for any uniform body of law with respect to the rights and responsibilities of passengers and air carriers in international transportation. Among other things, the Warsaw Convention set a limit on the liability an air carrier could incur with respect to bodily injury or death of any passenger carried in international air transportation,²¹ which, in today's terms, is approximately \$10,000.

In 1966, the United States indicated its intent to denounce the Warsaw Convention because of its dissatisfaction with the Convention's \$10,000 limit on an air carrier's liability to passengers. The U.S. withdrew its denunciation when all carriers serving this country, both U.S. and foreign, entered into the "Montreal Agreement." That Agreement increases the Warsaw Convention liability limit to \$75,000 per passenger.²² The Agreement also provides that a carrier is strictly liable for a passenger's bodily injury or death up to the liability limit even if the carrier can prove that it was not negligent in causing the accident.

The Department requires all air carriers to become signatories to the Montreal Agreement to ensure that passengers are covered by the higher limits of liability provided by that Agreement. This is accomplished by completing and filing OST Form 4523.

INSTRUCTIONS FOR COMPLETING OST FORM 4523

1. The form must be signed by an officer of the carrier.
2. The signing person's title and the name and address of the air carrier should be listed in the space provided.
3. An original and two copies of the form should be sent to Department of Transportation Dockets, 400 Seventh Street, SW., Washington, DC 20590.

²¹ International air transportation not only includes transportation between a U.S. point and a foreign point, but also service wholly within the U.S. if the passenger holds a ticket providing an interline connection to a foreign point.

²² This limit on liability should not be confused with the Department's mandatory liability insurance requirements for air carriers, which are required for all operations, both domestic and international, and which are intended to provide a source of funds in the event of an aircraft accident.

AGREEMENT

The undersigned carriers (hereinafter referred to as "the Carriers") hereby agree as follows:

1. Each of the Carriers shall, effective May 16, 1966, include the following in its conditions of carriage, including tariffs embodying conditions of carriage filed by it with any government:

"The Carrier shall avail itself of the limitation of liability provided in the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw October 12th, 1929, or provided in the said Convention as amended by the Protocol signed at The Hague September 28th, 1955. However, in accordance with Article 22(1) of said Convention, or said Convention as amended by said Protocol, the Carrier agrees that, as to all international transportation by the Carrier as defined in the said Convention or said Convention as amended by said Protocol, which, according to the contract of Carriage, includes a point in the United States of America as a point of origin, point of destination, or agreed stopping place

- (1) The limit of liability for each passenger for death, wounding, or other bodily injury shall be the sum of US \$75,000 inclusive of legal fees and costs, except that, in case of a claim brought in a State where provision is made for separate award of legal fees and costs, the limit shall be the sum of US \$58,000 exclusive of legal fees and costs.
- (2) The Carrier shall not, with respect to any claim arising out of the death, wounding, or other bodily injury of a passenger, avail itself of any defense under Article 20(1) of said Convention or said Convention as amended by said Protocol.

Nothing herein shall be deemed to affect the rights and liabilities of the Carrier with regard to any claims brought by, on behalf of, or in respect of any person who has willfully caused damage which resulted in death, wounding, or other bodily injury of a passenger."

2. Each Carrier shall, at the time of delivery of the ticket, furnish to each passenger whose transportation is governed by the Convention, or the Convention as amended by the Hague Protocol, and by the special contract described in paragraph 1, the following notice, which shall be printed in type at least as large as 10 point modern type and in ink contrasting with the stock on (i) each ticket; (ii) a piece of paper either placed in the ticket envelope with the ticket or attached to the ticket; or (iii) on the ticket envelope:

"ADVICE TO INTERNATIONAL PASSENGER ON LIMITATION OF LIABILITY

Passengers on a journey involving an ultimate destination or a stop in a country other than the country of origin are advised that the provisions of a treaty known as the Warsaw Convention may be applicable to the entire journey, including any portion entirely within the country of origin or destination. For such passengers on a journey to, from, or with an agreed stopping place in the United States of America, the Convention and special contracts of carriage embodied in applicable tariffs provide that the liability of

[certain

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[(name of carrier) and certain other] carriers parties to such special contracts for death of or personal injury to passengers is limited in most cases to proven damages not to exceed US \$75,000 per passenger, and that this liability up to such limit shall not depend on negligence on the part of the carrier. For such passengers traveling by a carrier not a party to such special contracts or on a journey not to, from, or having an agreed stopping place in the United States of America, liability of the carrier for death or personal injury to passengers is limited in most cases to approximately US \$10,000 or US \$20,000.

The names of Carriers parties to such special contracts are available at all ticket offices of such carriers and may be examined on request.

Additional protection can usually be obtained by purchasing insurance from a private company. Such insurance is not affected by any limitation of the carrier's liability under the Warsaw Convention or such special contracts of carriage. For further information please consult your airline or insurance company representative."

3. [The Agreement was filed with the Civil Aeronautics Board of the United States. The Board approved it by Order E-23680, adopted May 13, 1966. The Agreement (Agreement 18900) became effective May 16, 1966. On January 1, 1985, this Agreement became the responsibility of the Department of Transportation (DOT) by operation of law.]

4. This Agreement may be signed in any number of counterparts, all of which shall constitute one Agreement. Any Carrier may become a party to this Agreement by signing a counterpart hereof and depositing it with DOT.

5. Any Carrier party hereto may withdraw from this Agreement by giving twelve (12) months' written notice of withdrawal to DOT and the other Carriers parties to the Agreement.

* Either alternative may be used.

[signature and title]

[name of carrier]

[address of carrier]